

OLC/JMM  
19 August 1969

S. 782

SECTION 1. It shall be unlawful for any officer of any executive department or any executive agency of the United States Government, or for any person acting or purporting to act under his authority, to do any of the following things:

... (k) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, who is under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice, if he so requests: Provided, however, That a civilian employee of the United States serving in the C. I. A., the N. S. A., or the F. B. I. may be accompanied only by a person of his choice who serves in the agency in which the employee serves or by counsel who has been approved by the agency for access to the information involved....

S. 782

SEC. 6. Nothing contained in this Act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency or of the Federal Bureau of Investigation from requesting civilian employees or applicants to submit to any interrogation or examination, or to take a polygraph test, or to take a psychological test, designed to elicit from them information concerning their personal relationships with any person connected with them by blood or marriage, or concerning their religious beliefs or practices, or concerning their attitude or conduct with respect to sexual matters, or to provide a personal financial statement, if the Director of the Central Intelligence Agency or his designee or the Director of the National Security Agency or his designee or the Director of the Federal Bureau of Investigation or his designee makes a personal finding that such test or information is required to protect the national security.

S. 782

SEC. 7. Nothing contained in sections 4 and 5 shall be construed to prevent establishment of department and agency grievance procedures to enforce this Act, but the existence of such procedures shall not preclude any applicant or employee from pursuing the remedies established by this Act or any other remedies provided by law: Provided, however, That if under the procedures established, the employee or applicant has obtained complete protection against threatened violations or complete redress for violations, such action may be pleaded in bar in the United States District Court or in proceedings before the Board on Employee Rights: Provided further, however, That no civilian employee of the United States serving in the C. I. A. , the N. S. A. , or the F. B. I. , and no applicant for employment with those agencies, and no individual or organization acting in behalf of such employee or applicant, shall be permitted to invoke the provisions of sections 4 and 5 without first submitting a written complaint to the agency concerned about the threatened or actual violation of this Act and affording such agency 120 days from the date of such complaint to prevent the threatened violation or to redress the actual

violation: Provided further, however, That the above period of 120 days may be extended if deemed necessary on a personal finding by the director of the agency involved: Provided further, however, That nothing in this Act shall be construed to affect any existing authority of the directors of the Central Intelligence Agency under 50 USC 403(c), the National Security Agency under 50 USC 833, and the Federal Bureau of Investigation under 28 USC 536 to terminate the employment of any employee: Provided further, however, That if an employee<sup>or applicant</sup> elects to seek a remedy under either section 4 or section 5, he waives his right to proceed by an independent action under the remaining section.

S. 782

SEC. 8. Nothing in this Act shall be construed to affect in any way the authority of the Directors of the C. I. A. , the N. S. A. , or the F. B. I. to protect or withhold information pursuant to statute or executive order. The personal certification by the director of the agency that disclosure of any information is inconsistent with the provision of any statute or executive order shall be conclusive and no such information shall be admissible in evidence in any civil action under section 4, or in any proceeding or civil action under section 5.

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Remarks:  <p style="text-align: center;">Attached are rewrites of complete sections of S. 782 reflecting latest proposed amendments we formulated after considering revisions suggested by Senator Ervin.</p> <p style="text-align: center; margin-top: 50px;">JOHN M. MAURY</p>			
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Legislative Counsel 7D35			8-19-69
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237

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